

1                   **IN THE UNITED STATES DISTRICT COURT**  
2                   **FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**  
3                   **SOUTHERN DIVISION**  
4  
5

6           **ALLEN DOUGLAS HALE, III,**  
7           **Plaintiff,**

8           **VERSUS**                   **CIVIL ACTION NO: 1:16-cv-113-LG-RHW**

9  
10           **CITY OF BILOXI, MISSISSIPPI;**  
11           **KENNETH GARNER, Individually;**  
12           **DARREN LEA, Individually; and**  
13           **JOHN AND JANE DOES 2-10,**  
14           **Individually,**  
15           **Defendants.**

16  
17                   **DEPOSITION OF MICHAEL BROWN**

18           Taken at Biloxi Public Safety Building,  
19           170 Porter Avenue, Biloxi, Mississippi,  
20           on Tuesday, April 4, 2017, beginning  
21           at 10:08 a.m.  
22  
23  
24  
25

1 Q. Was anyone else present for the  
2 interview?

3 A. No, sir.

4 Q. Just you and Sergeant Lea?

5 A. Just me and him.

6 Q. How long did that interview last?

7 A. I'm not sure.

8 Q. Did you record the interview?

9 A. Yes, sir.

10 Q. How was it recorded?

11 A. A digital recorder.

12 Q. And what did you do with that digital  
13 recording after the interview was concluded?

14 A. Gave it to Investigator Shoemaker.

15 MR. SMITH: Let's go off the record for  
16 one second.

17 (Off the record.)

18 BY MR. SMITH:

19 Q. All right, Mr. Brown. I am going to  
20 play an audio recording now that's been marked.  
21 It's on a CD that's been marked as Exhibit 2 to  
22 this deposition. It is what was produced in  
23 discovery by the City to my office in this case.  
24 It's a recording of your interview with Darren  
25 Lea.

1           Q.    So we have three dates.  We have the day  
2           after the shooting, which would be April 2nd.  You  
3           then gave the date on the audio recording as April  
4           the 3rd, and then on the written report prepared  
5           by Investigator Shoemaker, it says April 4th.

6                        So does that clear up for you at all  
7           what day your interview with Sergeant Lea  
8           happened?

9           A.    If I said April 3rd, it would have  
10          probably been April 3rd on the report.  The day  
11          before could have -- I have no idea why I said  
12          that.  It just could have been a mistake.  I mean,  
13          I don't know.  I assume David Shoemaker wrote that  
14          on the 4th.

15          Q.    And that's fair.  I'm just trying to pin  
16          down exactly what date the best we can.

17          A.    That's the only way I can answer it.

18          Q.    All right.  Now, on the audio recording,  
19          after you give Sergeant Lea his Garrity  
20          Warning -- and Garrity is spelled G-A-R-R-I-T-Y --  
21          something comes up about Sergeant Lea's body cam.  
22          You mentioned to him that prior to the interview,  
23          Sergeant Lea gave you a body camera that he wore  
24          on April 1st, 2015; is that correct?

25          A.    Yes, that he gave to me.

1 Q. Correct.

2 A. Yes.

3 Q. What specifically did he actually give  
4 you?

5 A. I don't remember if it was the card or  
6 the whole thing. I've never fooled with one  
7 before. I don't remember if there was an SD card  
8 in it or if he handed me the camera. All I know  
9 is I didn't have the equipment to fool with it,  
10 and he told me it wasn't working.

11 Q. Let me ask you about that. When you  
12 say, he told you that it wasn't working, what do  
13 you mean?

14 A. He said that the body cam didn't work,  
15 and then I believe he said he turned it on later  
16 or something. I would have given that to  
17 somebody, and I can't tell you who. I just can't.  
18 I don't remember. It had, I guess, the access to  
19 be able to download it to see if anything was on  
20 it. From what I understood later -- I mean, just  
21 hearing talk -- nothing was on it.

22 Q. Nothing at all, as in there was nothing  
23 recorded?

24 A. If it was, I never heard about any of it  
25 or seen any of it.

1 from him again at all, I don't think, about  
2 anything.

3 Q. And so this occurred, him giving you  
4 either the SIM card or the body camera unit, just  
5 before the interview began -- your interview with  
6 him began; correct?

7 A. I don't remember if it was before it  
8 began or at the end.

9 Q. Well, we can go ahead and I'll play it  
10 for you so we can refresh your recollection a  
11 little bit. I'm going to fast forward to four  
12 minutes and 46 seconds.

13 (Audio recording played aloud.)

14 Investigator Brown: I guess one  
15 question before we start. When you came in,  
16 you gave me your body cam?

17 Darren Lea: Yes.

18 Investigator Brown: And let's go ahead  
19 and talk about that since you gave that to me  
20 already. Did you forget to turn it on last  
21 night?

22 Darren Lea: Yes.

23 Investigator Brown: All right. And  
24 then you -- when you remembered, which was  
25 after the shooting --

1                   Darren Lea: Yes.

2                   Investigator Brown: All right -- you  
3                   turned it on?

4                   Darren Lea: Yes.

5                   Investigator Brown: So any recordings  
6                   on that now is after?

7                   Darren Lea: Correct.

8                   Investigator Brown: All right. Which  
9                   would show what, pretty much?

10                  Darren Lea: The aftermath of us trying  
11                  to, you know, render first aid to the  
12                  victim -- or victim/suspect and taking  
13                  measures to secure the scene.

14                  Investigator Brown: So that's what  
15                  would be on there?

16                  Darren Lea: Yes.

17                  Investigator Brown: All right. Well,  
18                  let's go ahead and start from the very  
19                  beginning.

20                               (Audio recording stopped.)

21 BY MR. SMITH:

22                  Q. All right. Does that refresh your  
23                  recollection any of what he said about the body  
24                  cam?

25                  A. Yes, sir.

1           Q.    And does that help you out at all to  
2 remember who you might have given that to?

3           A.    No, sir.

4           Q.    So you never actually viewed the body  
5 cam footage, whatever was on there, did you?

6           A.    No, sir.

7           Q.    All right. Now, during your interview  
8 with Sergeant Lea, he told you that he, Kenneth  
9 Garner, and Robert McKeithen were going to serve a  
10 warrant on Doug Hale for, I believe he says in the  
11 interview, either fraud or forgery, something like  
12 that. Is that what your recollection is?

13          A.    Yes.

14          Q.    Okay. Did he tell you that the three of  
15 them, Lea, Garner, and McKeithen, met at Southern  
16 Tire Mart?

17          A.    Yes.

18          Q.    What did he tell you about them  
19 formulating any type of plan for serving or  
20 executing the arrest warrant?

21          A.    He said that they met there, looked at a  
22 photo from RMS, and then that they stopped at the  
23 complainant's trailer first and then went to the  
24 suspect's trailer. And that's when I said that I  
25 believe it was Officer McKeithen went to the back

1           A.    I don't remember who drove him back.  I  
2   know he gave Captain Johnson the TASER, and I  
3   think he drove himself back to the police  
4   department.

5           Q.    Did he tell you --

6           A.    If I remember right.

7           Q.    I'm sorry.  Did Sergeant Lea tell you  
8   anything about who drove Garner back to the police  
9   department?

10          A.    No, not that I know of.

11          Q.    Now, towards the end of the interview,  
12   you asked him what, if anything, Doug said after  
13   the shooting; is that right?  Do you remember  
14   that?

15          A.    Yes.

16          Q.    Okay.  And Lea said that Doug said, why  
17   did you shoot me.  Do you remember that?

18          A.    Yes.

19          Q.    Okay.  And Sergeant Lea then said -- and  
20   I'll quote -- "you wasn't doing what we was  
21   telling you to do," and directed that to Doug.  Do  
22   you remember him saying that?

23          A.    Yes.

24          Q.    Did you and Sergeant Lea ever speak  
25   again after your interview was concluded on April